



3 February 2009  
Support for SB 288

Chairman Perry, members of the committee, I am Tim Gregori, the General Manager/CEO of Southern Montana Electric Generation and Transmission Cooperative (Southern Montana Electric). Southern Montana Electric provides wholesale electric energy and related services to five rural electric distribution cooperatives serving south central Montana and Electric City Power an energy supply services arm of the City of Great Falls. Collectively the member systems of Southern Montana provide wholesale electric energy and related services to over 50,000 Montanans.

Over the course of the past several years members of Southern Montana Electric have been engaged in the development of a state of the art base load coal fired electric generation facility known as the Highwood Generating Station (HGS) approximately eight (8) miles east of Great Falls, Montana. The purpose of HGS was to meet the wholesale and electric energy needs of Beartooth Electric Cooperative, Fergus Electric Cooperative, Tongue River Electric Cooperative, Mid-Yellowstone Electric Cooperative and Electric City Power.

Despite Southern Montana Electric's efforts to propose a facility that would employ the best available control technology suitable for its facility HGS has been the focus of significant discussion and regulatory review that has delayed construction and cast a shadow of uncertainty as to when the review process would come to closure. On May 11, 2007 the Montana Department of Environmental Quality (DEQ) issued an Air Quality Permit for HGS. The May 2007 version of the air permit for HGS was subsequently appealed to the Montana Board of Environmental Review (BER) and the BER remanded the permit back to the DEQ for a thorough top down Best Available Control Technology (BACT) review of the facilities control equipment specific to emissions of particulate matter 2.5 microns and smaller (PM 2.5). On November 26, 2008 the DEQ re-issued the air permit for HGS after having addressed the issue of PM 2.5 emissions and making a determination that HGS would be deemed a minor emissions source for hazardous air pollutants and not subject to Maximum Available Control Technology (MACT) standards. The second version of the air permit issued in late November 2008 for HGS has now been appealed to the BER on some of the same issues raised in the initial appeal.

In addition to dealing with delays stemming from appeals to the air permit Southern Montana Electric has also been delayed as it has dealt with appeals to the zoning decision rendered by the Cascade County Commission as well as an appeal to a decision made by

the Cascade County Planning department to issue a Location Conformance Permit required for the commencement of construction at the HGS.

Despite Southern Montana's genuine efforts to build a base load coal fired facility that will meet or exceed all existing emissions standards, the multiple appeals to the air permit, zoning decision, and location conformance permit by project opponents have placed a stigma on the project and the ability to define with any level of certainty an end to the seemingly endless permitting appeal process. Absent the ability to define with clarity the appeal process and the financial risk associated with the permitting process, the likelihood of securing long term financing for any project in Montana is at best uncertain. Southern Montana believes the permitting and associated appeal process in our case has been used by special interest groups and entities opposed to the development of Montana's resources to unreasonably delay progress on HGS – and they have been able to do so without having to post a single “bond” or subject themselves to any financial liability, even though they have materially harmed the development of HGS and the over 50,000 Montanans that desire to add certainty to their supply of affordable and reliable electric energy and related services.

The unfettered ability of a special interest group to use the appeal process to this end is simply not fair, and an encumbrance to the fundamental right to due process to those attempting to acquire a permit. Without doubt those opposed to any project or initiative should have the right to appeal a decision of a state regulatory agency, county commission, or any other arm of federal, state or local government. However, the financial consequence of those appeals cannot be ignored. If you want to dance you must be willing to pay the fiddler. Therefore, Southern Montana Electric strongly supports Senate Bill Number 288 and would like to commend Senator Hinkle for sponsoring this bill which would not only play a crucial role in leveling the playing field in the regulatory appeal process – but it will allow the wishes of the majority to avoid falling prey to a minority whose agenda is not always to advance constructive initiatives - or necessarily reflective of the best interest of the Montanans saddled with paying the bill for the resulting delay.

The members of Southern Montana Electric remain focused on developing an environmentally compliant energy production portfolio consisting of base load and supplemental energy production facilities. Unfortunately, while those opposed to responsible energy development move on to other causes, the expenses left in the wake of their use of the appeal process will remain with those who have to pay the bill for many years to come. Please vote “do pass” on SB 288.

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